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4-22-03

Docket No. 3553-4020US2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Jay S. Walker et al. Group Art Unit. 2166  
Serial No : 09/507,509 Examiner: Sam Rimell  
Filed : February 18, 2000  
For : CONDITIONAL PURCHASE OFFER MANAGEMENT SYSTEM  
Commissioner for Patents  
Washington, D.C. 20231  
Sir.

RESPONSE TO OFFICE ACTION

In response to the action dated March 22, 2002, Applicants respectfully request reconsideration of the instant application in view of the following remarks.

Rejection Under 35 USC §103

Claims 98-111 and 138-147 were rejected under 35 USC §103 in view of Spallone '686 in view of Bezos '399. Applicants respectfully submit that Spallone merely discloses an arrangement in which customer orders are processed on an automated order entry system. The orders disclosed in Spallone are simply not offers. As such, no customer offers are processed by the Spallone system. Bezos fails to cure the deficiencies of Spallone in this regard. Accordingly, Applicants respectfully submit that the claims of the instant application are clearly distinguishable from the cited references.

The Examiner notes that Applicants' previous arguments were not well taken because the characteristics of an "offer" and an "order" are identical, and therefore the Examiner finds no distinction between them. Applicants respectfully disagree with the Examiner's assessment. A user placing an offer for a product or service in an environment where acceptance by a seller is not guaranteed - is simply not an "order". For example, a user placing an offer in a Conditional

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Purchase Offer system (such as an offer for an airline ticket on priceline.com) is simply quite different from a user placing an order for a book (such as on Bezos' Amazon.com). Once a user places an order for a book on Amazon, the book is simply shipped to the user. In stark contrast thereto, when a user makes an offer on Priceline, the user must first wait to hear if that offer has been accepted by (or on behalf of) a seller, before there can be any certainty that any goods or services have been purchased by the user. Accordingly, it is quite clear that "offers" are quite different from "orders". In view of these significant differences, Applicants respectfully request that the Examiner reconsider the position taken in the instant office action.

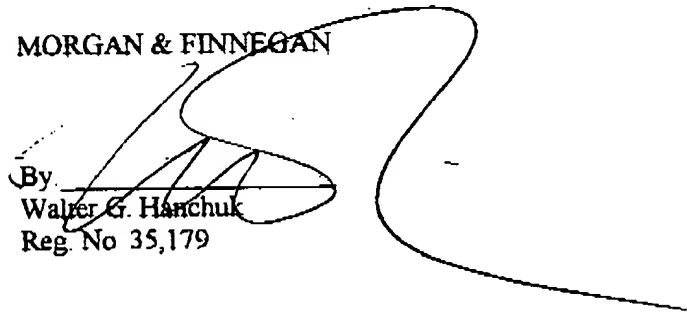
In the event that a telephone conference with Applicants' undersigned representative would facilitate examination in any way, the Examiner is invited to contact the undersigned at the number provided

The Commissioner is hereby authorized to charge any fees which may be required to Deposit Account 13-4500, order no 3553-4020US2. Any extension of time which may be required is hereby petitioned. A duplicate of this sheet is attached.

Respectfully submitted,

MORGAN &amp; FINNEGAN

Dated. March 24, 2003

By   
Walter G. Hanchuk  
Reg. No 35,179

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